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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,231	11/19/2003	Marcy Lynn Daniel	41872-287263	6933

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EXAMINER

HOEY, ALISSA L

ART UNIT PAPER NUMBER

3765

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/717,231	Applicant(s) DANIEL ET AL.	
Examiner Alissa L. Hoey	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 May 2006.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4-17 and 19-36 is/are pending in the application.
 - 4a) Of the above claim(s) 2, 5, 6, 8-10, 14, 15, 17, 20, 21, 23-25 and 29-36 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,4,7,11-13,16,19,22 and 26-28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Amendment

1. This is in response to amendment received on 02/28/06. Claims 3 and 18 were cancelled, claims 1, 4, 16 and 19 have been amended and claims 5, 6, 8-10, 14, 15, 20, 21, 23-25 and 29-36 are withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 4,734,938) in view of Jenkins (US 2,621,501).

In regard to claim 1, Anderson teaches a set of garments, each of the garments (10) in the set comprising a garment match indicator (12, 14) comprising a word describing an identifiable characteristic common to the garments in the set (12). The garment match indicators having a color different than the color of the garment (column 2, lines 36-41). Wherein each of the garments is matable to the other garments by the garment match indicator (column 1, lines 63-68).

However, Anderson fails to teach the match indicator comprising the name being a word of the size of the garments.

Jenkins teaches the garment match indicators representing the size of the garment (column 1, lines 51-55 through column 2, lines 1-4).

Art Unit: 3765

The prior art of Jenkins and Anderson details the use of written words, symbols or a combination of both as indicia on the sock articles so a user can match up a particular set. The actual word of the size is not taught in the prior art, but the use of words is taught and the use of symbols to represent sizes of the sock are found in the prior art. It would not have been a stretch for one having ordinary skill in the art to use many different symbols and words to match sock pairs. The use of the word of the size of the garment in place of the symbol of the size of the garment could be determined based upon desired aesthetic effects and the age/literacy ability of the user.

In regard to claim 12, Anderson teaches the garment match indicator being integrally formed in the garment (column 2, lines 28-31).

In regard to claim 13, Anderson teaches the garment match indicators being knit into the garment (column 2, lines 28-31).

Further, Anderson fails to teach each set of garments having a different size. Wherein the word of the size of the garments for each set of garment comprises a unique color.

In regard to claim 4, Jenkins teaches a plurality of sets of garment each set of garments having different size, wherein the name of the size of the garments for each set of garments comprises a unique color (figures 1-3).

It would have been obvious to have provided the sock match indicator set of Anderson with the match indicators representing the size of the garment of Jenkins, since the sock match indicator set of Anderson provided with match indicators representing the size of the garments would allow the user not only to match two socks

Art Unit: 3765

together but to further allow the user to match the socks together based upon size so the final paired sets are of equal size.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 7, 16, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brevoort (US 2004/0216219) in view of Jenkins (US 2,621,501).

In regard to claim 1, Brevoort teaches a set of garments each of the garments (1) in the set comprising a garment match indicator (3) comprising a word describing an identifiable characteristic common to the garments in the set (figures 1-4). The garment match indicators having a color different than the color of the garment (paragraph 0011). Wherein each of the garments is matchable to the other garment by the garment match indicators (paragraph 0009).

In regard to claim 16, Brevoort teaches a pair of socks each sock comprising a toe, a heel, a foot portion between and including the toe and the heel, a medial side and a lateral side (figures 1-4). The foot portion further comprising a bottom below the midline on each of the medial and lateral sides of the foot portion (figure 1). A sock match indicator disposed on the bottom of the foot portion comprising a word describing

Art Unit: 3765

an identifiable characteristic common to each of the socks of the pair (paragraph 0011). The color of the sock match indicator being different than the color of the sock. Each of the socks of the pair is matable to the other by the sock match indicators (paragraph 0009).

However, Brevoort fails to teach the match indicators comprising the name of the size of the garments and a plurality of sets of garments having a different size wherein the name of the size of the garments for each set of garments comprising a unique color.

In regards to claims 1, 4, 7, 16, 19 and 22, Jenkins teaches a sock having match indicators comprising the name of the size of the garments and a plurality of sets of garments having a different size wherein the name of the size of the garment for each set of garments comprises a unique color (figures 1-3 column 2, lines 1-16).

The prior art of Jenkins and Brevoort details the use of written words, symbols or a combination of both as indicia on the sock articles so a user can match up a particular set. The actual word of the size is not taught in the prior art, but the use of words is taught and the use of symbols to represent sizes of the sock are found in the prior art. It would not have been a stretch for one having ordinary skill in the art to use many different symbols and words to match sock pairs. The use of the word of the size of the garment in place of the symbol of the size of the garment could be determined based upon desired aesthetic effects and the age/literacy ability of the user.

It would have been obvious to have provided the sock with match indicators of Brevoort with the size and color indicating teaching of Jenkins, since the sock with

Art Unit: 3765

match indicators of Brevoort provided with a size and color indicating the particular match of a garment sock set would allow one to pair up sock sets easily and correctly after the laundering process.

6. Claim 11, 16, 26, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson and Jenkins in further view of Carter (US 3,135,442).

In regard to claim 16, Anderson teaches a pair of socks each sock comprising a toe, a heel, a foot portion between and including the toe and the heel, a medial side and a lateral side. The foot portion further comprising a bottom below the midline on each of the medial and lateral sides of the foot portion. A sock match indicator disposed on the foot portion comprising a word describing an identifiable characteristic common to each of the socks of the pair. The color of the sock match indicator being different than the color of the sock. Each of the socks of the pair is matable to the other by the sock match indicators.

However, Anderson fails to teach the sock having the match indicators disposed on the bottom of the foot portion and the match indicator comprising the word of the name of the size of the garment.

Jenkins teaches Jenkins teaches the garment match indicators representing the size of the garment (column 1, lines 51-55 through column 2, lines 1-4).

The prior art of Jenkins and Anderson details the use of written words, symbols or a combination of both as indicia on the sock articles so a user can match up a particular set. The actual word of the size is not taught in the prior art, but the use of

Art Unit: 3765

words is taught and the use of symbols to represent sizes of the sock are found in the prior art. It would not have been a stretch for one having ordinary skill in the art to use many different symbols and words to match sock pairs. The use of the word of the size of the garment in place of the symbol of the size of the garment could be determined based upon desired aesthetic effects and the age/literacy ability of the user.

Carter teaches a sock with trademark and size information located on the bottom of the foot portion (figure 1).

Further, Anderson fails to teach the sock further comprising a brand identifier and the match indicator comprising the name of the size of the socks. Additionally, Anderson fails to teach a plurality of pairs of socks each pair of the socks having a different size wherein the name of the size of the socks for each pair of socks comprises a unique color.

In regard to claims 11 and 26, Carter teaches a sock garment with trademark information located on the sock which would identify the brand (column 1, lines 12-17).

In regard to claim 18, Carter teaches the sock match indicators comprising the name of the size of the socks (column 1, lines 12-17).

In regard to claim 19, Carter teaches a plurality of pairs of socks each pair of socks capable of having a different size wherein the name of the size of the socks for each pair of socks can comprise a unique color if desired.

In regard to claims 27 and 28, Anderson teaches the sock match indicator being integrally knit into the sock body.

Art Unit: 3765

It would have been obvious to have provided the sock with match indicators of Anderson and Jenkins with the match indicators of Carter located on the bottom of the sock and detailing the size and trademark information, since the sock of Anderson and Jenkins provided with match indicators located on the bottom of the sock detailing the size and trademark information would provide for the indicators to be concealed from view no matter what style shoe is worn with the sock and the size and trademark information ensures that the pair of socks mated together would be of the same size and brand to ensure proper and even fit on both feet.

Response to Arguments

7. Applicant's arguments filed 02/28/06 have been fully considered but they are not persuasive.

l) Applicant argues that none of the prior art used to reject the claims teaches the word of the size of the garment.

Examiner notes that the prior art teaches socks having match indicators on the body of the socks to assist in matching a set pair of socks together after laundering. The prior art details the use of written words, symbols or a combination of both as indicia on the sock articles so a user can match up a particular set. The actual word of the size is not taught in the prior art, but the use of words is taught and the use of symbols to represent sizes of the sock are found in the prior art. It would not have been a stretch for one having ordinary skill in the art to use many different symbols and words to match sock pairs. The use of the word of the size of the garment in place of the symbol of the

Art Unit: 3765

size of the garment could be determined based upon desired aesthetic effects and the age/literacy ability of the user.

Conclusion

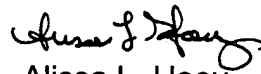
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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